REMARKS

Claims 25, 39-42 and 63-65 are currently pending. Claims 43-62 and 66 are withdrawn as non-elected claims.

The Office Action mailed on August 16, 2005 contains a Restriction Requirement requiring Applicant to choose either claims 25-42 and 63-65, or claims 43-62 and 66, for prosecution. This Requirement is respectfully traversed, with election (claims 25, 39-42, and 63-65 are elected).

The Restriction Requirement appears to be based on MPEP § 806.05(e), which states: "Process and apparatus for its practice can be shown to be distinct inventions, if . . . the following can be shown: (A) that the process as claimed can be practiced by another materially different apparatus or by hand." The Patent Office then tries to "show" that the process can be practiced by a materially different apparatus from that claimed in the system claims, stating: "For example, at least a portion of the method steps can be performed with a direct data communication link without the use of a computer network." This assertion is misplaced for several reasons.

First, the system claimed in claim 43, for example, does not comprise a computer network. The system comprises only a hub computer. So the Patent Office's reliance on the alleged distinction between a "direct data communication link" and a "computer network" is not relevant to the subject claims.

Second, the Patent Office is misconstruing the phrase "computer network." A computer network is simply two or more computers in communication with each other. Consequently, a "direct data communication link" between two computers *is* a computer network. In other words, there is no material difference between "direct data communication link" and "computer network." The former is simply an example of the latter.

Third, the Patent Office is required to *show* that the "the process as claimed can be practiced by another materially different apparatus." The Patent Office hasn't *shown* anything in the Office Action. Applicant is not completely sure what the Patent Office means by "direct data

communication link," but it is clear that the Patent Office has provided no explanation of how such a "link" could practice the method claimed in claim 25, for example.

According to MPEP § 806.05(e): "The burden is on the examiner to provide reasonable examples that recite material differences." No recitation of material differences can be found in the Office Action.

Moreover: "If applicant proves or provides convincing arguments that there is no material difference, . . . the burden is on the examiner to document another materially different process or apparatus or withdraw the requirement." In this case, Applicant respectfully requests that the Requirement be withdrawn – especially since most of the restricted claims were submitted at the suggestion of the Examiner.

The Office Action further states that Applicant must choose between two "species": that depicted by claims 25-42 (i.e., claims 25 and 39-42, since claims 26-38 were canceled in an amendment mailed on April 30, 2003), and that depicted by claimed 63-65. This species election requirement is not supported. According to MPEP § 808.01(a), there must be "a patentable difference between the species as claimed." The Office Action has identified no patentable difference between claims 25 and 39-42 and claims 63-65. Consequently, the requirement to elect a species is improper and should be withdrawn.

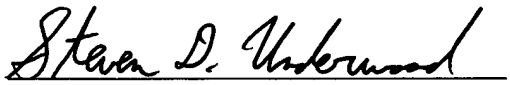
However, since even an improper election requirement requires an election, Applicant hereby elects the "species" of claims 63-65 in order to comply with the Office Action.

No statements made herein are intended to reduce the scope of the claims beyond that dictated by the plain wording of the claims themselves. Arguments regarding claim limitations are intended to apply only to claims explicitly possessing those limitations.

No fee is believed to be due with this Response. However, if any fee is due, please charge that fee to Deposit Account No. 50-0310.

Respectfully submitted,

Dated September 7, 2005



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